

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

Amended Clerk's Minutes
Before the Honorable James O. Browning

CASE NO. 1:14-CR-02783-JB-CG-1 **DATE:** 5/12/2021

TITLE: *USA v. Rodella, et al.*

COURTROOM CLERK: L. Rotonda **COURT REPORTER:** J. Bean

COURT IN SESSION: 8:46 AM **TOTAL TIME:** 1 HOUR, 24 MINUTES

TYPE OF PROCEEDING: MOTION HEARING

COURT RULING/DISPOSITION:

1. MOTION FOR SENTENCE REDUCTION PURSUANT TO 18 U.S.C. 3582 (C)(1)(A)(I) [247](#) – INCLINED TO DENY;
2. DEFENDANT'S MOTION FOR A SENTENCE REDUCTION [260](#) – INCLINED TO DENY.

ATTORNEYS PRESENT FOR PLAINTIFF(S): **ATTORNEYS PRESENT FOR DEFENDANT(S):**

Jeremy Pena

Wayne Baker

PROCEEDINGS:

COURT IN SESSION: 8:46 AM

COURT: CALLS CASE, COUNSEL ENTER APPEARANCES. COURT NOTES THAT DEFENDANT WAS INITIALLY GOING TO ATTEND VIA TELEPHONE, BUT AS WE ARE 17 MINUTES PAST SCHEDULED TIME OF HEARING, WE WILL PROCEED WITHOUT DEFENDANT'S ATTENDANCE, AT REQUEST OF MR. BAKER. COURT INVITES MR. BAKER TO ARGUE MOTIONS.

MR. BAKER: REGARDING SECOND MATTER, MR. RODELLA INDICATED THAT ANOTHER ATTORNEY WOULD BE ARGUING ON MR. RODELLA'S BEHALF. REQUESTS THAT MATTER BE HELD IN ABEYANCE.

COURT: QUERIES COUNSEL REGARDING POINTS OF CLARIFICATION.

MR. BAKER: WILL ARGUE TWO MOTIONS TOGETHER.

COURT: QUERIES COUNSEL REGARDING FACT THAT MR. RODELLA WAS APPOINTED COUNSEL, YET HAS CONTINUED TO FILE MOTIONS ON HIS OWN BEHALF.

MR. BAKER: STATES BELIEF THAT THIS MAY BE ATTRIBUTED TO FACT THAT ORDER WAS NEVER ENTERED WHICH FORMALLY GRANTED REQUEST FOR COUNSEL.

COURT: QUERIES MR. PENA AS TO WHETHER GOVERNMENT OPPOSES ENTRY OF ORDER TO THAT EFFECT.

MR. PENA: REQUESTS COPY OF MOTIONS.

MR. BAKER: CONTINUES ARGUING IN FAVOR OF MOTIONS, REFERENCES EXHIBITS THERETO.

COURT: QUERIES COUNSEL.

MR. BAKER: RESPONDS TO COURT'S QUERIES, RESUMES ARGUING IN FAVOR OF MOTIONS.

9:29 AM COURT: NOTES THAT COURT WAS ABLE TO GET DEFENDANT ON THE LINE. ADVISES MR. RODELLA THAT MR. BAKER HAS BEEN ARGUING MOTIONS, AS HE WAS NOT CONNECTED TO TELECONFERENCE SYSTEM. COURT MAKES FINDING THAT PROCEEDING MAY NOT BE FURTHER DELAYED WITHOUT CAUSING SERIOUS HARM TO JUSTICE.

MR. BAKER: RESUMES ARGUING IN FAVOR OF MOTIONS.

COURT: INVITES MR. RODELLA TO ADDRESS THE COURT.

MR. RODELLA: ADDRESSES THE COURT.

COURT: INVITES MR. PENA TO ADDRESS THE COURT.

MR. PENA: ADDRESSES THE COURT, ARGUES IN OPPOSITION TO MOTIONS.

COURT: QUERIES MR. PENA AS TO WHY ONE POINT OF GOVERNMENT'S ARGUMENT WAS WITHDRAWN.

MR. PENA: RESPONDS TO COURT'S QUERIES.

COURT: QUERIES COUNSEL REGARDING ARGUMENT.

MR. PENA: RESPONDS TO COURT'S QUERIES.

COURT: INVITES MR. RODELLA TO ADDRESS THE COURT, THEN WILL GIVE MR. BAKER LAST WORD.

MR. RODELLA: ADDRESSES THE COURT.

COURT: THANKS MR. RODELLA, INVITES MR. BAKER TO ADDRESS THE COURT.

MR. BAKER: THANKS COURT, ARGUES IN FAVOR OF MOTION.

COURT: THANKS MR. BAKER, STATES THAT CIRCUMSTANCES CITED DO NOT RISE TO EXTRAORDINARY AND COMPELLING STANDARD. COURT HAS CAREFULLY REVIEWED CIRCUIT'S OPINIONS ON THIS SUBJECT, AND HAS CAREFULLY REVIEWED MOTIONS. WHILE COURT BELIEVES THESE WERE IMPRESSIVE EFFORTS, DOES NOT FEEL MEETS THESE CONDITIONS. AS TO 3553(A) FACTORS, COURT REFERENCES SENTENCING MEMORANDUM, AS BALANCING FACTORS WERE CONSIDERED CAREFULLY AT THE TIME OF SENTENCING AND REMAIN RELEVANT. COURT WILL DENY TWO REQUESTS. COURT WISHES MR. RODELLA WELL, BUT BELIEVES SENTENCE SHOULD NOT BE REDUCED. ANYTHING ELSE?

MR. PENA: NOTHING FURTHER, AND NO OBJECTION AS TO MOTIONS TO APPOINT COUNSEL.

MR. BAKER: NOTHING FURTHER.

COURT: ADDRESSES MR. RODELLA.

COURT IN RECESS: 10:10 AM